

REMARKS

The claims have been amended to specify what processing is in the claims. In the Board of Appeals decision, the Board took what Applicant considers to be an untenable position with respect to processing. Nonetheless, the claims have been amended to preclude such an interpretation.

Furthermore, the Applicant does not agree that the burden lies on the applicant to show that the device of the prior art does not perform as claimed. The cited Ludtke case does not stand for any such position. The position taken by the Board is clearly incorrect since there is no "device of the prior art." There would be no way for the Applicant to test such a device because all the Applicant has is the disclosure. The disclosure in the patent application does not tell you enough to know how to test it.

Therefore, the decision based on Ludtke is not accepted and is based on erroneous application of law. The Applicant is amending the claims in order to position the case in the best possible situation for future consideration.

CONCLUSION

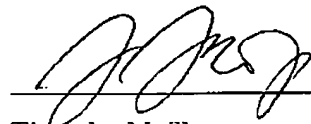
In view of these remarks, reconsideration is respectfully requested.

The commissioner is authorized to charge any additional fees, including extension of time fees, or credit any overpayment to Deposit Account No. 20-1504 (ITL.0571US).

Respectfully submitted,

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